

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

DANIEL LYNN MYERS,)	CIV. NO. 16-00164 SOM-KSC
)	CR. NO. 04-00363 SOM (04)
Petitioner,)	
)	ORDER REFERRING TO THE NINTH
vs.)	CIRCUIT DEFENDANT DANIEL LYNN
)	MYERS'S SECOND MOTION UNDER 28
UNITED STATES OF AMERICA,)	U.S.C. § 2255 TO VACATE, SET
)	ASIDE, OR CORRECT SENTENCE;
Respondent.)	EXHIBIT A
)	

**ORDER REFERRING TO THE NINTH CIRCUIT DEFENDANT DANIEL LYNN
MYERS'S SECOND MOTION UNDER 28 U.S.C. § 2255 TO VACATE, SET
ASIDE, OR CORRECT SENTENCE; EXHIBIT A**

Relying on Johnson v. United States, 135 S. Ct. 2551 (2015), Defendant Daniel Lynn Myers has filed with this court a second motion seeking relief under 28 U.S.C. § 2255, as well as a motion seeking a determination that no certification is necessary under 28 U.S.C. § 2255(h), or alternatively seeking a referral of the matter to the Ninth Circuit for § 2255(h) certification. See Crim. No. 04-00363 SOM (04), ECF Nos. 332, 334 (copies attached as Exhibit A).

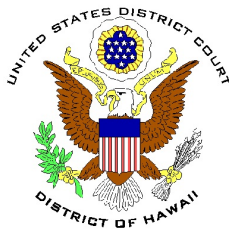
In Williams v. United States, Crim. No. 11-00937 SOM (D. Haw. May 12, 2016), another case involving a second § 2255 motion based on Johnson, the court referred the matter to the Ninth Circuit for § 2255(h) certification purposes. Id., ECF No. 147. The court originally set a briefing schedule for the motions in the present case, including the motion arguing that no Ninth Circuit certification was necessary. Although briefing has not concluded, the court held a telephone status conference on

May 12, 2016, to discuss whether to refer the matter to the Ninth Circuit. In light of the analysis in the Williams referral order, which the parties had reviewed before the telephone conference began, the parties agreed that the court should refer Myers's second § 2255 motion to the Ninth Circuit pursuant to Ninth Circuit Rule 22-3(a). Accordingly, for the purpose of addressing the § 2255(h) certification issue and for the reasons stated in this court's Williams order, the court refers the second § 2255 motion in this case to the Ninth Circuit.

The court directs the Clerk of Court to transmit this order with its attached Exhibit A to the Ninth Circuit. All pending deadlines are vacated, and the Clerk of Court is further directed to terminate any motion left pending before this court and to close both Criminal No. 04-00363 SOM (04) and Civil No. 16-00164 SOM-KSC.

IT IS SO ORDERED.

Dated: Honolulu, Hawaii, May 12, 2016.



/s/ Susan Oki Mollway
Susan Oki Mollway
United States District Judge

Myers v. United States, Crim No. 04-00363 SOM (04) and Civ. No. 16-00164 SOM-KSC;
ORDER REFERRING TO THE NINTH CIRCUIT DEFENDANT DANIEL LYNN MYERS'S SECOND MOTION UNDER
28 U.S.C. § 2255 TO VACATE, SET ASIDE, OR CORRECT SENTENCE; EXHIBIT A